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EXAMINER	
KROFCHECK, MICHAEL C	

ART UNIT	PAPER NUMBER
2186	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,311	YATZIV ET AL.	
	Examiner	Art Unit	
	Michael Krofcheck	2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *6/27/2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to application 10/608,311 filed on June 27, 2003.

2. Claims 1 – 27 have been submitted for examination.

3. Claims 1 – 27 have been examined.

Specification

4. The disclosure is objected to because of the following informalities:

a. The co-pending patent application's application number, title, and filing date are not properly filled out in paragraph 0001.

b. The heading, "FIELD" on the first page of the specification should read, "FIELD OF INVENTION."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 – 7, 10 – 16, and 19 – 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 3, 12, 21 recite the limitation "the data pertaining to the physical data storage parcels" in lines 1 – 2 of each claim. There is insufficient antecedent basis for this limitation in the claim.

8. Claims 3, 5, 12, 14, 21, and 23 recites the limitation "the list" in line 2 of each claim. There is insufficient antecedent basis for this limitation in the claim.

9. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "physical logical data block" in claims 1, 2, 6, 7, 10, 11, 15, 16, 19, 20, 24, and 25 is used by the claims to mean "physical storage", while the accepted meaning/use is related to "virtual storage." "Physical logical" is contradictory. The term is indefinite because the specification does not clearly redefine the term.

10. Claims 4, 13, and 22 are rejected because of their dependency.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1 – 2, 19 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobson et al., U.S. Patent Application Publication No. 2004/0068636 (hereinafter Jacobson) which incorporates Jacobson et al., U.S. Patent No. 5,392,244 (hereinafter Jacobson 2) by reference.

13. With respect to claim 1, Jacobson teaches of a method comprising: creating a virtual data storage parcel (Figs. 1, 2; paragraphs 0020, 0024; where the controller is arranged to create a virtual storage space. The virtual storage space includes a plurality of virtual storage volumes (virtual data storage parcel)),

the virtual data storage parcel including a number of virtual logical data blocks of a first size (Fig. 2; paragraph 0031; where the blocks in the virtual storage locations include 512 bytes of data);

creating one or more physical data storage parcels (Fig. 2; paragraph 0024; where the physical storage space includes a plurality of physical storage volumes (physical storage parcels). The physical storage volumes are present; therefore they have been created),

each of the one or more physical data storage parcels including a number of physical logical data blocks of a second size (Fig. 2; paragraph 0031; where the blocks in the physical storage locations include 512 bytes of data); and

mapping the virtual logical data blocks to the physical logical data storage blocks (Figs. 1, 2; paragraph 0029).

14. With respect to claim 2, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein a combined size of the one or more physical data storage parcels exceeds the size of the virtual data storage parcel (Fig. 2; paragraphs 0024, 0031; where the depicted number of volumes which show 5 physical volumes and 3 virtual volumes can be more or less), the method further comprising:

storing data pertaining to the virtual data storage parcel in one or more of the physical logical data blocks (Fig. 2; paragraph 0030; where the host request to write addresses a storage location of a virtual storage volume, and a pointer contains the location in the physical storage location which contains the data written by the host).

15. With respect to claim 3, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein the data pertaining to the physical data storage parcels includes data of one or more types selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; paragraph 0022; where the controller uses a RAID 5DP (double parity) storage scheme to store the data. Jacobson 2, Figs. 1, 3; column 3, line 61 – column 4, line 31; where parity data (error correction code data) is stored in one of the 4 physical disks).

16. With respect to claim 10, Jacobson teaches of a data storage system comprising: a storage medium (Fig. 1, item 14; paragraph 0019);

a processing system (Fig. 1, item 12; paragraph 0020); and

a memory, coupled to the processing system (Fig. 1, item 18; paragraph 0023),

the memory having stored therein instructions which, when executed by the processing system, cause the processing system to a) create a virtual data storage parcel (Figs. 1, 2; paragraph 0020, 0023 – 0024; where the memory stores executable code usable by the controller. The controller is arranged to create a virtual storage space. The virtual storage space includes a plurality of virtual storage volumes (virtual data storage parcel)),

the virtual data storage parcel including a number of virtual logical data storage blocks of a first size (Fig. 2; paragraph 0031; where the blocks in the virtual storage locations include 512 bytes of data),

b) create one or more physical data storage parcels (Fig. 2; paragraph 0024; where the physical storage space includes a plurality of physical storage volumes (physical storage parcels). The physical storage volumes are present; therefore they have been created),

each of the one or more physical data storage parcels including a number of physical logical data storage blocks of a second size (Fig. 2; paragraph 0031; where the blocks in the physical storage locations include 512 bytes of data), and

c) map the virtual logical data storage blocks to the physical logical data storage blocks (Figs. 1, 2; paragraph 0020, 0029).

17. With respect to claim 11, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein a combined size of the one or more physical data storage parcels exceeds the size of the virtual data storage

parcel (Fig. 2; paragraphs 0024, 0031; where the depicted number of volumes which show 5 physical volumes and 3 virtual volumes can be more or less), and

wherein the instructions which, when executed by the processing system, further cause the processing system to d) store data pertaining to the virtual data storage parcel in one or more of the physical logical data blocks (Fig. 2; paragraphs 0020, 0023, and 0030; where the host request to write addresses a storage location of a virtual storage volume, and a pointer contains the location in the physical storage location which contains the data written by the host).

18. With respect to claim 12, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein the data pertaining to the physical data storage parcels includes data of one or more types selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; paragraph 0022; where the controller uses a RAID 5DP (double parity) storage scheme to store the data. Jacobson 2, Figs. 1, 3; column 3, line 61 – column 4, line 31; where parity data (error correction code data) is stored in one of the 4 physical disks).

19. With respect to claim 19, Jacobson teaches of a machine-readable medium containing instructions (Fig. 1; paragraph 0023)

which, when executed by a processing system, cause the processing system to perform a method, the method comprising: creating a virtual data storage parcel (Figs. 1, 2; paragraphs 0020, 0024; where the controller is arranged to create a virtual storage

space. The virtual storage space includes a plurality of virtual storage volumes (virtual data storage parcel)),

the virtual data storage parcel including a number of virtual logical data storage blocks of a first size (Fig. 2; paragraph 0031; where the blocks in the virtual storage locations include 512 bytes of data);

creating one or more physical data storage parcels (Fig. 2; paragraph 0024; where the physical storage space includes a plurality of physical storage volumes (physical storage parcels). The physical storage volumes are present; therefore they have been created),

each of the one or more physical data storage parcels including a number of physical logical data storage blocks of a second size (Fig. 2; paragraph 0031; where the blocks in the physical storage locations include 512 bytes of data); and

mapping the virtual logical data storage blocks to the physical logical data storage blocks (Figs. 1, 2; paragraph 0029).

20. With respect to claim 20, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein a combined size of the one or more physical data storage parcels exceeds the size of the virtual data storage parcel (Fig. 2; paragraphs 0024, 0031; where the depicted number of volumes which show 5 physical volumes and 3 virtual volumes can be more or less), the method further comprising:

storing data pertaining to the virtual data storage parcel in one or more of the physical logical data blocks (Fig. 2; paragraph 0030; where the host request to write

addresses a storage location of a virtual storage volume, and a pointer contains the location in the physical storage location which contains the data written by the host).

21. With respect to claim 21, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson also teaches of wherein the data pertaining to the physical data storage parcels includes data of one or more types selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; paragraph 0022; where the controller uses a RAID 5DP (double parity) storage scheme to store the data. Jacobson 2, Figs. 1, 3; column 3, line 61 – column 4, line 31; where parity data (error correction code data) is stored in one of the 4 physical disks).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

23. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

24. Claims 6 – 7, 15 – 16, and 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson.

25. With respect to claims 6, 15, and 24, Jacobson teaches all of the limitations of the parent claims as discussed supra. Jacobson 2 teaches of wherein the virtual data storage parcel includes less virtual logical data blocks than the physical data storage parcel (column 7, lines 59 – 64).

Jacobson fails to specifically teach of eight virtual logical data blocks and nine physical logical data storage blocks.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use eight virtual logical data blocks and nine physical logical data storage blocks since it has been held that relative dimensions are not patentably distinct. *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (Fed. Cir. 1984). In addition, the applicant states in paragraph 0018 and 0019 that the number of data blocks in the physical and virtual data storages parcels may vary.

26. With respect to claims 7, 16, and 25, Jacobson teaches all of the limitations of the parent claims as discussed supra. Jacobson also teaches of wherein the nine physical logical data blocks are 512 bytes in length (paragraph 0031; where the blocks of the physical storage system comprise 512 bytes of data).

27. Claims 4, 13, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al., U.S. Patent No. 5,911,150 (hereinafter Peterson).

28. With respect to claim 4, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein each virtual

logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block.

However, Peterson teaches of wherein each virtual logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block (Figs. 10, 11; column 6, lines 10 – 33; where the Host Block Header (system data) and logical block data (data pertaining to the system data) make up a logical block).

Jacobson and Peterson are analogous arts as they both use a virtual storage system to address the physical storage system. It would have been obvious to one of ordinary skill in the art having the teachings of Jacobson and Peterson at the time of the invention to incorporate the Host Bock Header from the logical blocks of Peterson into the virtual storage blocks of Peterson. The motivation for this would have been to separate and define the logical blocks (Peterson, column 6, lines 10 – 22).

29. With respect to claim 13, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein each virtual logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block.

However, Peterson teaches of wherein each virtual logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block (Figs. 10, 11; column 6, lines 10 – 33; where the Host Block Header (system data) and logical block data (data pertaining to the system data) make up a logical block).

30. With respect to claim 22, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein each virtual logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block.

However, Peterson teaches of wherein each virtual logical data block includes system data as well as data pertaining to the system data of the respective virtual logical data block (Figs. 10, 11; column 6, lines 10 – 33; where the Host Block Header (system data) and logical block data (data pertaining to the system data) make up a logical block).

31. Claims 5, 14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson and Peterson as applied to claims 4, 13, and 22 respectively, and further in view of Itoh et al., U.S. Patent No. 5,966,720 (hereinafter Itoh).

32. With respect to claim 5, the combination of Jacobson and Peterson teach of all the limitation of the parent claims as discussed supra. The combination of Jacobson and Peterson fail to specifically teach of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data.

However, Itoh teaches of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; column 2, lines 60 – 62; column 3, lines 14 – 23; where

the sectors within each block are addressed by logical addresses assigned to them and not their physical address. When data is written to the sectors, cyclic redundancy check data is also written into each sector).

The combination of Jacobson and Peterson, and Itoh are analogous arts as they both use logical addresses to access physical storage locations. It would have been obvious to one of ordinary skill in the art having the teaching of Jacobson, Peterson, and Itoh at the time of the invention to include the cyclic redundancy check data from Itoh in the virtual blocks of the combination of Jacobson and Peterson. The motivation for this would have been to enable correction of the error in 1 bit and the detection of the error in 2 bits (Itoh, column 3, lines 22 – 24).

33. With respect to claim 14, the combination of Jacobson and Peterson teach of all the limitation of the parent claims as discussed supra. The combination of Jacobson and Peterson fail to specifically teach of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data.

However, Itoh teaches of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; column 2, lines 60 – 62; column 3, lines 14 – 23; where the sectors within each block are addressed by logical addresses assigned to them and

not their physical address. When data is written to the sectors, cyclic redundancy check data is also written into each sector).

34. With respect to claim 23, the combination of Jacobson and Peterson teach of all the limitation of the parent claims as discussed supra. The combination of Jacobson and Peterson fail to specifically teach of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data.

However, Itoh teaches of wherein the data pertaining to the virtual logical data block includes data of one or more types of data selected from the list consisting of error correction code data, cyclic redundancy check data, checksum data, timestamp data and cache history data (Fig. 1; column 2, lines 60 – 62; column 3, lines 14 – 23; where the sectors within each block are addressed by logical addresses assigned to them and not their physical address. When data is written to the sectors, cyclic redundancy check data is also written into each sector).

35. Claims 8, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson and Cleveland et al., U.S. Patent No. 5,325,370, (hereinafter Cleveland).

36. With respect to claim 8, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein the size of each virtual logical data block varies within a data storage system.

However, Cleveland teaches of wherein the size of each virtual logical data block varies within a data storage system (Fig. 9; column 8, lines 29 – 47; where the data blocks are logical entities (virtual logical data blocks) which may have different lengths).

Jacobson and Cleveland are analogous arts as they both relate to using a virtual storage system to access a physical storage system. It would have been obvious to one of ordinary skill in the art having the teachings of Jacobson and Cleveland at the time of the invention to incorporate the variable logical data block sizes from the virtual storage of Cleveland to virtual bock sizes in the virtual storage system of Jacobson. The motivation for this would have been to more efficiently store data in the system (Cleveland, column 1, line 65 – column 2, line 1, column 2, line 59 – column 3, line 11).

37. With respect to claim 17, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein the size of each virtual logical data block varies within a data storage system.

However, Cleveland teaches of wherein the size of each virtual logical data block varies within a data storage system (Fig. 9; column 8, lines 29 – 47; where the data blocks are logical entities (virtual logical data blocks) which may have different lengths).

38. With respect to claim 26, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein the size of each virtual logical data block varies within a data storage system.

However, Cleveland teaches of wherein the size of each virtual logical data block varies within a data storage system (Fig. 9; column 8, lines 29 – 47; where the data blocks are logical entities (virtual logical data blocks) which may have different lengths).

39. Claims 9, 18, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson and Hill, U.S. Patent No. 5,345,584 (hereinafter Hill).

40. With respect to claim 9, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of determining a number of physical data storage parcels based upon consideration of size overhead and performance overhead.

However, Hill teaches of determining a number of physical data storage parcels based upon consideration of size overhead and performance overhead (column 4, lines 4 – 24; column 14, lines 16 – 26; column 10, line 64 – column 11, line 6; column 12, line 51 – column 13, line 12; where storage devices (physical data storage parcels) can be added or removed automatically to minimize system degradation. The system also strives to keep a high utilization of the storage capacity. When an unstable condition occurs, with the storage devices near capacity the data set may need to be removed from the current storage device to another. If there is no additional space, a new storage device needs to be added).

Jacobson and Hill are analogous arts as they are in the same field of endeavor, data storage systems. It would have been obvious to one of ordinary skill in the art having the teachings of Jacobson and Hill at the time of the invention to incorporate the process of automatically adding or removing storage devices from Hill into Jacobson. The motivation for this would have been to control system degradation and keep the system operating efficiently (Hill, column 4, lines 4 – 16).

41. With respect to claim 18, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of wherein the instructions which, when executed by the processing system, further cause the processing system to e) determine a number of physical data storage parcels based upon consideration of size overhead and performance overhead.

However, Hill teaches of wherein the instructions which, when executed by the processing system, further cause the processing system to e) determine a number of physical data storage parcels based upon consideration of size overhead and performance overhead (column 4, lines 4 – 24; column 14, lines 16 – 26; column 10, line 64 – column 11, line 6; column 12, line 51 – column 13, line 12; where storage devices (physical data storage parcels) can be added or removed automatically to minimize system degradation. The system also strives to keep a high utilization of the storage capacity. When an unstable condition occurs, with the storage devices near capacity the data set may need to be removed from the current storage device to another. If there is no additional space, a new storage device needs to be added).

42. With respect to claim 27, Jacobson teaches all of the limitations of the parent claim as discussed supra. Jacobson fails to specifically teach of determining a number of physical data storage parcels based upon consideration of size overhead and performance overhead.

However, Hill teaches of determining a number of physical data storage parcels based upon consideration of size overhead and performance overhead (column 4, lines 4 – 24; column 14, lines 16 – 26; column 10, line 64 – column 11, line 6; column 12, line

51 – column 13, line 12; where storage devices (physical data storage parcels) can be added or removed automatically to minimize system degradation. The system also strives to keep a high utilization of the storage capacity. When an unstable condition occurs, with the storage devices near capacity the data set may need to be removed from the current storage device to another. If there is no additional space, a new storage device needs to be added).

Double Patenting

43. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

44. Claims 1 and 6 – 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 2, and 9 – 11 of copending Application No. 10/607,770. Although the conflicting claims are not identical, they are not patentably distinct from each other. See chart below.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Application 10/608,311	Application 10/607,770
1. A method comprising: creating a virtual data storage parcel, creating one or more physical data storage parcels,	1. A method comprising: creating an atomic data storage unit containing a first type of data requiring a first type of processing and a second type of data requiring a second type of processing; and transferring the first type of data to a first memory address space via a direct memory access operation and transferring the second type of data to a second memory address space via the direct memory access operation. 2. The method of claim 1 wherein the atomic data storage unit is a physical data storage parcel created by mapping a plurality of virtual logical data storage blocks of a virtual data storage parcel to a plurality of physical logical data storage blocks of the physical data storage parcel
the virtual data storage parcel including a number of virtual logical data blocks of a first size;	2. the virtual logical blocks of a first size
each of the one or more physical data storage parcels including a number of physical logical data blocks of a second size;	the physical logical blocks of a second size

and mapping the virtual logical data blocks to the physical logical data storage blocks.	mapping a plurality of virtual logical data storage blocks of a virtual data storage parcel to a plurality of physical logical data storage blocks of the physical data storage parcel
6. The method of claim 1 wherein the virtual data storage parcel includes eight virtual logical data blocks	9. The method of claim 2 wherein the virtual data storage parcel includes eight virtual logical data blocks
the eight virtual logical data blocks mapped to a physical data storage parcel including nine physical logical data storage blocks	the eight virtual logical data blocks mapped to a physical data storage parcel including nine physical logical data storage blocks
7. The method of claim 6 wherein the nine physical logical data blocks are 512 bytes in length	10. The method of claim 9 wherein the nine physical logical data blocks are 512 bytes in length
8. The method of claim 1 wherein the size of each virtual logical data block varies within a data storage system	11. The method of claim 10 wherein the size of each virtual logical data block varies within a data storage system

Conclusion

45. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

46. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Krofcheck whose telephone number is 571-272-8193. The examiner can normally be reached on Monday - Friday.

47. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

48. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Krofcheck

MATTHEW D. ANDERSON
PRIMARY EXAMINER